

## REMARKS

Claims 1-104 are pending in this application, of which Claims 1, 93, 94, and 100 are the independent claims. Claims 1, 93, and 94 have been amended, while Claim 100 has not been amended. Claims 1-104 remain pending.

The Office Action rejected Claims 1-104 under 35 U.S.C. § 103(a) as being unpatentable over Shoham (U.S. Patent No. 6,285,989) in view of Paiz (U.S. Patent No. 7,058,601). Applicant has carefully reviewed the cited art and submits that the claims presented herewith should be allowed.

Claims 1, 93, and 94 are directed to a method of providing a market process, wherein a communication (e.g., an order or inquiry) is received from at least one trading process for trading an item with another trading process according to a market methodology selected from a set of market methodologies. Each of the market methodologies are rules of engagement between at least two trading processes. Furthermore, each of the market methodologies have values specified for (i) its time to return a price for the item in response to receiving the order or inquiry, (ii) its methodology for determining a price for the item, and (iii) how long its price for the item can be relied upon after the price is returned to the trading process from which the order or inquiry was received.

Consider, for example, the following discussion of the present application. An "order umpire" or "oU" as described in the present application may be considered a formal or informal market that defines and implements the rules of engagement by which items are exchanged between "electronic liquidity finder" programs (otherwise referred to as ELF's). As explained at page 5, lines 14-18, of the application as filed, an umpire is formed by configuring a market program with configurations from a market provider, and executing the configured program on the platform of system 5 to create a "market process." This market process operates as directed by the selected market methodology as claimed.

An ELF may be thought of as a virtual floor broker that operates at electronic speeds. Forming an ELF is the culmination of a procedure involving configuring an order-handling program with specifications from a trader, and executing the configured program on the platform of system 5 to create an order handling engine, also referred to herein as a trading process. Thus, as claimed, each trading process is a computer program entity operating according to a respective trading methodology configured with parameters selected by a user of the trading process.

Orders and inquiries may be received at the market process (order umpire) to return price information as appropriate. Values are specified for (1) the time for the market process to return a price for an item in response to receiving an order or inquiry, (2) the methodology of the market process for determining a price for the item, and (3) how long the price from the market process can be relied upon after the price is returned to the trading process from which the order or inquiry was received.

Furthermore, the market process, as claimed, has published the values specified for its market methodology to the respective trading processes. For example, page 13, line 30, to page 17, line 22, of the present application, and particularly the paragraph bridging pages 13-14, discuss various parameters that are relevant to discovery. These parameters are specified on an umpire-by-umpire basis, and include "T1 Maximum time an umpire takes to return a price", "METHOD Pricing methodology (to determine price)" and "T2 Amount of time for which the returned price is good (executable)." As also explained in the specification:

- An umpire publishes its rules and ELFs either agree to those rules by registering with that umpire, or they do not register. (See page 3, paragraph [0050] of the present application as published).
- When an order umpire is providing discovery with auction mode, the order umpire responds to price inquiries after an interval of up to a published delay time. (See page 12, paragraph [0218] of the present application as published).

- After oU 30 is setup, oU 30 makes information about its order handling methodology and parameter values available to all oEs on system 5, such as by publishing this information in a file accessible to all oEs. (See page 28, paragraph [0473] of the present application as published).
- oU 30 follows its published market methodology in responding to discover requests, including considering contra-party preference information, disclosure level compatibility between booked orders and the inquiring party, and so on. (See page 31, paragraph [0541] of the present application as published).

Shoham describes a method and apparatus that can be used to build an online auction using building blocks of software technology. Applicant submits that Shoham does not teach or suggest all of the elements recited in each of Claims 1, 93, and 94. Accordingly, the disclosure of Shoham alone does not support a rejection of the claims. The Office Action recognized at least one of the deficiencies in Shoham and attempted to overcome the deficiency by citing the disclosure of Paiz. However, Paiz is unavailing.

The Office Action cited Paiz for allegedly teaching a market methodology having values specified for how long its price can be relied upon. Paiz teaches no such thing. At best Paiz teaches that *an authorization* to trade can be given to an end-user for a "pre-established length of time within pre-agreed cost variation parameters." See Col. 1, lines 50-55; Col. 4, lines 5-9; and Col. 5, lines 16-19. Granting an authorization to trade for a specified time period does not constitute specifying a value for "how long its price for the item can be relied upon after the price is returned to the trading process from which the order was received." Accordingly, even if Paiz could be combined with Shoham (which combination applicant denies), the combination still fails to teach or suggest all of the elements recited in Claim 1.

Applicant traverses the rejection of Claim 1 based on Shoham and Paiz, and requests reconsideration of the same. The subject matter set forth in Claim 1, and the manner in which

the subject matter is arranged, is neither taught nor suggested by Shoham and/or Paiz (alone or combined). Accordingly, Claim 1 is patentable over the prior art.

To reject independent Claims 93 and 94, the Office Action repeated the same allegations used to reject Claim 1. Where Claims 93 and 94 include elements similar to those set forth in Claim 1, applicant submits that Claims 93 and 94 are patentable over Shoham and Paiz for the same reasons as Claim 1. The disclosures of Shoham and Paiz, alone or combined (if such combination is possible), do not teach or suggest all of the elements recited in Claims 93 and 94.

Claims 2-92 and 95-99 are also in patentable condition, both for their dependence on patentable Claims 1 and 94, and also for the subject matter they separately recite. Notably, for all the claims in the present application, the Office Action cited identical portions of Shoham (namely, Col. 1, lines 35-67; Col. 2, lines 11-34 and 52-67; Col. 4, lines 37-54; Col. 5, lines 28-36; Col. 6, lines 10-40; Cols. 7 to 8, lines 1-66; Col. 12, lines 7-37; Col. 13, lines 33-54; and Col. 14, lines 4-41). Applicant has considered these portions of Shoham and does not find that these portions anticipating or rendering obvious the elements claimed in the present application. Moreover, the disclosure of Paiz is insufficient to overcome the above-noted deficiencies of Shoham. Should the Patent Office determine to maintain the claim rejections based on Shoham and Paiz, greater particularity of explanation is needed for the subject matter in each of the claims.

In view of the above, applicant requests reconsideration and allowance of Claims 1-99.

Claim 100 is directed to a method of providing a market process, including detecting that a next book price will be worse than a previous book price according to a market methodology selected from a set of market methodologies, notifying a crowd of an opportunity to improve upon the next book price, receiving a crowd price from the crowd, and providing the crowd price as a response when the crowd price is better than the next book price.

The Office Action rejected Claim 100 citing precisely the same portions of Shoham and using precisely the same arguments raised against the previous claims. The Office Action

conceded that Shoham fails to teach or suggest "how long its price can be relied upon," which applicant appreciates, but this is not applicable to Claim 100.

The disclosure of Shoham is not concerned with comparing a next book price to a previous book price, and further is not concerned with sending price improvement notifications to anyone. Applicant has considered the disclosure of Paiz and finds nothing that teaches or suggests these elements to overcome the deficiencies of Shoham.

Accordingly, Claim 100, and its dependent Claims 101-104, are all patentably distinguished over Shoham and Paiz.

### CONCLUSION

The disclosures of Shoham and Paiz are defective and do not support a *prima facie* case of obviousness of Claims 1-104. Allowance of Claims 1-104 is requested. Should the Examiner identify any remaining issues needing resolution prior to allowance, the Examiner is invited to contact the undersigned counsel by telephone.

Respectfully submitted,

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